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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,215	09/11/2000	Howard Allan Abrams	004747.P006	5736
26797	7590	10/02/2003	EXAMINER	
SILICON VALLEY PATENT AGENCY, INC. 7394 WILDFLOWER WAY CUPERTINO, CA 95014			COBY, FRANTZ	
			ART UNIT	PAPER NUMBER
			2171	10

DATE MAILED: 10/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/659,215

Applicant(s)

ABRAMS ET AL.

Examiner

Frantz Coby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,10,12-14,16-19 and 23-26 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☒ Claim(s) NONE is/are allowed.

- 6) ☒ Claim(s) 1,3-7,10,12-14,16-19 and 23-26 is/are rejected.

- 7) ☒ Claim(s) NONE is/are objected to.

- 8) ☒ Claim(s) NONE are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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This is in response to Amendment filed on November 19, 2002 in which claims 2, 8-9, 11, 15 and 20-22 were canceled, claims 1, 3, 10, 12,14, 16-19 were amended and claims 23-26 were added.

Notice of Allowance Vacated

1. The indicated allowability of claims 1, 3-7, 10, 12-14, 16-19 and 23-26 is withdrawn in view of the newly discovered reference(s) to Dennis Heimbigner; Napster. Rejections based on the newly cited reference(s) follow.

Applicant is advised that the Notice of Allowance mailed on December 03, 2002 is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account. 1, 3-7, 10, 12-14, 16-19 and 23-26

2. Prosecution on the merits of this application is reopened on claim 1, 3-7, 10, 12-14, 16-19 and 23-26 and they are considered unpatentable for the reasons indicated below:

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1, 10, 14, and 23-26 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Dennis Heimbigner "Adapting Publish/Subscribe Middleware to Achieve Gnutella-like Functionality" Technical Report CU0CS-909-00, September 01, 2000, pages 1-16.

As per claims 1, 10, 14 and 23, Dennis Heimbigner discloses the claimed limitations of "receiving a query to a first set of users accessible by a first user via a data network, the query including information relevant to a request for information and the first set of users being on the data network when the query is sent; and forwarding a response to the query from a second user over the data network, the second user being a member of the first set of users, the response including information responsive to the query, the information accessible in a public portion of a system controlled at least in part by the second user" by providing a simple request-response paradigm for sharing files directly between peer computers. Wherein, users send out request for files; these requests are propagated to all peer nodes in the network, and in response, nodes generate replies back to the query originator indicating that they have the specified file or files (See Dennis Heimbigner Page 1).

In summary, Dennis Heimbigner achieved the claimed limitations of claims 1, 10, 14 and 23 by providing a decentralized architecture including a simple request-response paradigm for sharing files directly between peer computers. In particular, Users sent out requests for files; these requests are propagated to all peer nodes in the Dennis Heimbigner's network, and in response, nodes generate replies back to the query originator indicating that they have the specified file or files.

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As per claims 24-26, the limitations of these claims have been noted in the rejection of claim 23 above. In addition, Dennis Heimbigner discloses a community sharing public information by allowing a plurality of nodes to be connected and sharing resources across the Internet; wherein when users sent out requests for files; these requests are propagated to all peer nodes in the Dennis Heimbigner's network, and in response, nodes generate replies back to the query originator indicating that they have the specified file or files.

5. Claims 1, 10 and 14 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by "How Napster Worked" Printed pages 1-14. A Napster Timeline is provided for evidence only that Napster began operations allowing people to swap music files since June 01, 1999.

As per claims 1, 10 and 14, Napster discloses the claimed limitations of "receiving a query to a first set of users accessible by a first user via a data network, the query including information relevant to a request for information and the first set of users being on the data network when the query is sent; and forwarding a response to the query from a second user over the data network, the second user being a member of the first set of users, the response including information responsive to the query, the information accessible in a public portion of a system controlled at least in part by the second user" by providing a peer to peer sharing, or P2P which allow users to query for files they want and then access the user's computer b to download the requested files. For instance, when you want to download a song using Napster, you are downloading it from another person's machine, and that person could be your next-door neighbor or someone halfway around the world. (See How Napster Worked Printed page 1).

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Further, the Napster Utility on your computer queries the index Server and Napster builds a list of these systems in the results window (See How Napster Worked, Printed pages 2-3).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-5, 12-13, 16, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dennis Heimbigner "Adapting Publish/Subscribe Middleware to Achieve Gnutella-like Functionality" Technical Report CU0CS-909-00, September 01, 2000, pages 1-16.

As per claims 3, 12 and 16, most of the limitations of this claim have been noted in the rejection of claims 1 and 10, 14, and 23 Applicant's attention is directed to the rejection of claims 1, 10, 14 and 23 above.

It is note that Dennis Heimbigner did not specifically detail discloses the claimed feature of "forwarding the query to a second set of users when there is no response received from the first set of users" and "receiving a response form a third user including information responsive to the query from a public portion of a system controller at least in part by the third user; and forwarding the response to the first user" as recited in the instant claims 3, 12 and 16. However, Dennis Heimbigner recognizes that, when a query is sent by a user, the query is propagated to all the other users including all other group of users in the Gnutella network until a response to the

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query is found and then forwarded to the query originator (See Dennis Heimbigner Section 1, pages 1-2). The Applicant should duly note that, by allowing the query to be propagated to all other users in the network is an indication, for the simple reason, to make sure that if one set of users does not have the requested file, a second set of users or a third set of users etc... will have a response to the query. The Applicant should also note that the Gnutella network has suggested forming a Peer-to-Peer working group having three different sets of users. Namely, IBM, Hewlett-Packard and Intel (See Dennis Heimbigner Page 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have improved on the Peer to Peer working group suggestion of Dennis Heimbigner by propagating a query among group of users because that would have provided faster query responses as well as ability for users to sent out requests based on interest of groups or clusters of users.

As per claims 4-5, most of the limitations of these claims have been noted in the rejection of claim 3 above. In addition, Dennis Heimbigner discloses the claimed feature of "adding the third user to the first set of users" by allowing new user to sign or join the Gnutella network. Further Dennis Heimbigner does not show any relation among users. Therefore, Dennis Heimbigner also achieved the claimed feature of "the second set of users dynamically formed such that the second set of users has no intersection with the first set of users" (See Dennis Heimbigner Sections 1-2).

As per claim 13, most of the limitations of these claims have been noted in the rejection of claim 12 above. In addition, Dennis Heimbigner discloses the claimed feature of "adding the third user to the first set of users" by allowing new user to sign or join the Gnutella network. Further Dennis Heimbigner does not show any relation among users. Therefore, Dennis Heimbigner also achieved the claimed feature of "the second set of users dynamically formed such that the second set of users has no intersection with the first set of users" (See Dennis Heimbigner Sections 1-2).

As per claim 17, all the limitations of this claim have been noted in the rejection of claims 4-5 and 13 above. It is therefore rejected as set forth above.

8. Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dennis Heimbigner "Adapting Publish/Subscribe Middleware to Achieve Gnutella-like Functionality" Technical Report CU0CS-909-00, September 01, 2000, pages 1-16 in view of "How Napster Worked"

As per claim 6, most of the limitations of this claim have been noted in the rejection of claim 5 above.

It is noted, however, Dennis Heimbigner did not specifically detail the claimed feature of "the query includes a list of users known to have had the query sent to each user of the list of users" as recited in the instant claim 6. On the other hand, the Napster Utility achieved the aforementioned claimed limitation by allowing Napster to build a list of these systems in the

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results window (See Printed Page 2). The Applicant should note that, a “Napster Timeline”, for evidence, accompanies the applied “Napster” reference only, showing that Napster begins operations, allowing people to swap music file in June 01, 1999.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Peer-to-Peer Architecture of Dennis Heimbigner by incorporating the Napster’s teachings. The motivation being, to have provided a central index server that would have informed users where to find the requested files.

As per claim 18, most of the limitations of this claim have been noted in the rejection of claim 17 above.

It is noted, however, Dennis Heimbigner did not specifically detail the claimed feature of “the query includes a list of users known to have had the query sent to each user of the list of users” as recited in the instant claim 18. On the other hand, the Napster Utility achieved the aforementioned claimed limitation by allowing Napster to build a list of these systems in the results window (See Printed Page 2). The Applicant should note that, a “Napster Timeline”, for evidence, accompanies the applied “Napster” reference only, showing that Napster began operations, allowing people to swap music file in June 01, 1999.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Peer-to-Peer Architecture of Dennis Heimbigner by incorporating the Napster’s teachings. The motivation being, to have provided a central index server that would have informed users where to find a requested file.

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9. Claims 7 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dennis Heimbigner "Adapting Publish/Subscribe Middleware to Achieve Gnutella-like Functionality" Technical Report CU0CS-909-00, September 01, 2000, pages 1-16 in view of Raz U.S. Patent no. 5,701,480.

As per claims 7 and 19, most of the limitations of this claim have been noted in the rejection of claims 4 and 17 respectively. Applicant's attention is directed to the rejection of claims 4 and 17 above.

It is noted however, Dennis Heimbigner did not specifically detail the claimed features of "a timestamp indication when the query was originated and further comprising discarding queries received at a time later than the timestamp plus a predetermined length of time" as recited in the instant claims 7 and 19. On the other hand, Raz discloses the aforementioned claimed features by providing a timestamp mechanism for queries wherein queries can be garbage collected at a time later than a timestamp (See Raz Col. 101, lines 55-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the timestamp mechanism of Raz in the network architecture of Dennis Heimbigner because that would have allowed queries to provide consistent results.

Conclusion

Any response to this action should be mailed to:

Commissioner of Patents and trademarks

Washington, D.C. 20231

or faxed to:

(703) 305-9051, (for formal communications
intended for entry)

Or:

(703) 308-5357 (for informal of draft
communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington.
VA., Sixth Floor (Receptionist).

I. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz Coby whose telephone number is (703) 305-4006. The examiner can normally be reached Monday through Friday from 9:30 A.M. to 6:00 P.M.

II. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436. The Fax phone number for this Group is After Final (703) 746-7328; Official (703) 746-7239; Non-Official/Draft (703) 746-7240.


FRANTZ COBY
PRIMARY EXAMINER

September 9, 2003